THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.25879 OF 1997

Dated: 12th June, 2006.

Between:

The Senior Manager, APSRTC,

Tirupati, Chittoor District. … Petitioner

And

1. State Transport Appellate Tribunal, A.P.,

   Hyderabad, rep. by its Presiding Officer,

   And 3 others. … Respondents

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WRIT PETITION NO.25879 OF 1997

ORDER :

This writ petition is filed by the A.P. State Road Transport Corporation (APSRTC) questioning the order passed by the State Transport Appellate Tribunal (STAT), A.P., Hyderabad, dated 25-6-1997 in A.P.No.228 of 1995 thereby setting aside the order passed by the Regional Transport Authority, Chittoor dated 8-8-1995.

The facts, in brief, are as under :

The 3rd respondent herein made an application for grant of pucca stage carriage permit on the town service route from Punganur Bus-stand to Chokkandlapalli via M.D.O. Office. The 2nd respondent rejected the said application by order dated 8-8-1995 on the ground that the routes of APSRTC sanctioned under G.O.Ms.No.95, dated 23-2-1991 and G.O.Ms.No.273, dated 20-3-1979 were partially overlapping. It was also observed that the route granted to a private operator earlier was found to be not economically viable. Aggrieved by the said order, the 3rd respondent preferred an appeal being A.P.No.228 of 1995 before the State Transport Appellate Tribunal. The said appeal was allowed by order dated 25-6-1997 thereby setting aside the order of the 2nd respondent dated 8-8-1995 holding that the two schemes sanctioned under G.O.Ms.No.95, dated 23-2-1991 and G.O.Ms.No.273, dated 20-3-1979 did not affect grant of permit to the applicant and the Corporation had not pressed into service any other scheme. Thus, the State Transport Appellate Tribunal directed to issue permit to the route in question within four months. Questioning the said order, the present writ petition has been filed by the Corporation contending inter alia that out of total length of 22.2 kms of the proposed route, an extent of 19.8 kms lies outside the municipal limits and thus the route within municipal limits was only 2.4 kms which cannot be said to be a town service route. It was also contended that the proposed route overlaps not only the routes notified under G.O.Ms.No.95, dated 23-2-1991; G.O.Ms.No.273, dated 20-3-1979 and G.O.Ms.No.1104, dated 7-12-1976 but also the Scheme No.96, dated 10-2-1989 and thus grant of permission to the 3rd respondent was hit by Section 104 of the Motor Vehicles Act, 1988.

I have heard the learned Counsel for both the parties and perused the material on record.

At the outset, it is to be noted that Scheme No.96, dated 10-2-1989 being only a draft scheme stood lapsed long back. Similarly, the extent of overlapping in G.O.Ms.No.273, dated 28-3-1979 and G.O.Ms.No.1104, dated 7-12-1976 are found to be well within the limits. The learned Standing Counsel for the Corporation Sri K. Srinivasa Rao has not disputed the same.

In the impugned resolution dated 8-8-1995 itself the 2nd respondent expressed that the partial overlapping was not coming in the way for grant of permit. The 2nd respondent had also referred to the fact that the route in question was already granted to a private operator. However, the permit to the 3rd respondent was rejected only on the ground that the route in question was uneconomical. The first respondent Tribunal having held that the reasoning adopted by the 2nd respondent for rejecting the application of the petitioner was untenable had rightly set aside the same and directed to issue permit to the petitioner as prayed for.

I do not find any justifiable reason to hold that the said order of the 1st respondent Tribunal, impugned in this writ petition, is erroneous on any ground whatsoever.

However, the learned Standing Counsel for the Corporation contended that under the scheme notified under G.O.Ms.No.95, dated 23-2-1991 no protection was provided in respect of the future town service and therefore the 3rd respondent cannot be granted the permits as sought by him. The learned Counsel in support of his submissions placed reliance upon a decision of the Supreme Court in A.P.SRTC v. REGIONAL TRANSPORT AUTHORITY.

It is true that in the said decision, the Supreme Court, while dealing with a scheme framed by the Corporation containing similar exceptions held that only the existing operators on the notified routes were eligible for permits. However, as rightly

submitted by the learned Counsel for the 3rd respondent, such objection was never raised before the Tribunal by the Corporation. Hence, I am not inclined to accept the contention raised by the Corporation for the first time before this Court on the basis of the exceptions appended to the scheme under G.O.Ms.No.95, dated 23-2-1991. Since the said contention was never raised before the Tribunal in the appeal, the petitioner Corporation cannot be allowed to raise the said ground for the first time in this writ petition.

For the aforesaid reasons, I do not find any merit in the writ petition and accordingly the same is dismissed. No costs.

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G. ROHINI, J.

Dt. 12-6-2006

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